

United States District Court

EASTERN DISTRICT OF WISCONSIN

**SECOND AMENDED DECLARATORY
JUDGMENT IN A CIVIL CASE**

AMERITECH CORPORATION,

Plaintiff,

V.

CASE NUMBER: **99-C-675**

**E. MICHAEL MCCANN,
in his official capacity as
District Attorney of Milwaukee County, Wisconsin,**

Defendant.

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came on for consideration and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that Ameritech Corporation's action for declaratory judgment is **GRANTED** as follows:

The exemption of 18 U.S.C. § 2706(c), does not apply to a terminating automated message accounting ("AMA") report because Ameritech Corporation does not maintain AMA reports.

The term "governmental entity" in the Electronic Communications Privacy Act includes state and local governmental entities.

There is no preemption issue because no Wisconsin law excuses or forbids compensation to telephone companies that disclose information.

When E. Michael McCann invokes Wis. Stat. § 968.135 to compel Ameritech Corporation to produce a terminating AMA report, he has obtained information "under" § 2703.

Regulation of the telephone network, which relates worldwide, through the Electronic Communications Privacy Act is securely in the scope of Congress's power under the Commerce Clause.

Section 2706 does not unduly impinge on state sovereignty by opening the state courts to private suits, E. Michael McCann (the State), not a private party, is the plaintiff in state court.

When E. Michael McCann petitions the state court for an order compelling Ameritech Corporation to prepare a terminating AMA report, Ameritech Corporation is entitled to insist that the state court order contain a compensation amount as directed under § 2706.

In the future, E. Michael McCann SHALL tender compensation as a part of every request under Wis. Stat. § 968.135 that Ameritech Corporation provide a terminating AMA report, and SHALL agree to litigate the amount of compensation in state court if Ameritech Corporation deems the tender inadequate.

Unless such an offer is made by E. Michael McCann and included in the state court's order, Ameritech Corporation need not provide the requested information.

Accordingly, E. Michael McCann's Motion for Summary Judgment is DENIED and Ameritech Corporation's Motion for Summary Judgment is Granted.

This action is DISMISSED.

June 13, 2005
Date

Approved as to Form:

s/ Rudolph T. Randa
Hon. Rudolph T. Randa

June 13, 2005
Date

SOFRON B. NEDILSKY
Clerk
s/ Linda M. Zik
(By) Deputy Clerk